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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,556	02/11/2004	David B. Wood	WOOD-0006	6688
7590	08/25/2005		EXAMINER	
Robert Platt Bell Registered Patent Attorney 8033 Washington Road Alexandria, VA 22308				DAVIS, DAVID DONALD
		ART UNIT	PAPER NUMBER	2652

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/775,556	WOOD, DAVID B.
	Examiner	Art Unit
	David D. Davis	2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 8-10 and 19-21 is/are allowed.
- 6) Claim(s) 1-7 and 11-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Haddock (US 4,700,840). Haddock shows in figure 1 a combined “compact disc” 47 and container 13 11 for use as a business, credit or collectors card including a “compact disc” 47 having a diameter less than 12 centimeters as disclosed in column 3, lines 23-26. Figure 1 of Haddock also shows rectangular card-shaped container 13 having a minor axial dimension substantially the same as the diameter of the “compact disc” 47 for receiving and storing the “compact disc” 47. Haddock discloses in column 3, lines 23-26 that the diameter along a major axis of the “compact disc” 47 is substantially 8 centimeters and the distance between the sides is 4.7 centimeters.

Haddock shows in figures 1-3 that “compact disc” 47 has a non-round shape including at least two substantially parallel sides spaced apart a distance substantially the same as the minor axial dimension of the rectangular card-shaped container 13 to allow the “compact disc” 47 to be placed in the rectangular card-shaped container 13. Figures 1-3 of Haddock also show that a diameter along a major axis is sufficient to span a corresponding 8 cm depressed portion in a “compact disc” 47 reader tray so as to support and align the “compact disc” 47 in a “compact disc” 47 reader. See column 3, lines 23-26.

Haddock shows in figures 1-3 a substantially planar adapter 45, having an internal arcuate region having a diameter substantially the same as the "compact disc" 47 and at least two lands extending from the internal arcuate region for supporting and aligning the "compact disc" 47. The substantially planar adapter 45 has a minor axial dimension substantially the same as the minor axial dimension of the rectangular card-shaped container 13 to fit inside the rectangular card-shaped container 13 with the "compact disc" 47 contained therein. The substantially planar adapter 45 further having an arcuate outside portion having a diameter substantially the same as a corresponding 8 cm depressed portion in a "compact disc" 47 reader tray so as to align the "compact disc" 47 in a "compact disc" 47 reader. See column 3, lines 23-26.

The diameter of the arcuate outside portion of the substantially planar adapter 45 is substantially 8 centimeters. See column 3, lines 23-26. Haddock shows in figure 3 substantially planar adapter 45 has a raised portion 41 on one side thereof for engaging a corresponding slot 42 in the container 13 to secure the substantially planar adapter 45 and "compact disc" 47 into the container 13.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-7 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haddock (US 4,700,840). Haddock discloses the claimed invention (see the description supra),

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and Haddock discloses in column 3, lines 23-26 that the diameter along a major axis of the "compact disc" 47 is substantially 8 centimeters and the distance between the sides is 4.7 centimeters.

However, Haddock is silent as to parallel sides being spaced approximately 5.5 to 6.35 centimeters from one another.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to specify that the dimension of the sides of the data storage apparatus of Haddock where space approximately spaced 5.5 to 6.35 centimeters from one another instead of 4.7 centimeters.

The rationale is as follows: the purpose of the data storage apparatus is to store information. The apparatus need not have side spaced 5.5 to 6.35 centimeters from one another to store information. Realizing this, one of ordinary skill in the art at the time the invention was made would have been motivated to space side 5.5 to 6.35 centimeters instead of 4.7, which is well within the purview of a skilled artisan and absent an unobvious result, so as to provide a data storage apparatus able to be inserted and/or read in a predetermined reader.

Allowable Subject Matter

5. Claims 8-10 and 19-21 are allowable over the prior art of record.

Response to Arguments

6. Applicant's arguments filed June 13, 2005 have been fully considered but they are not persuasive. Applicant asserts that the "compact disc" of Haddock does not have a diameter between 8 and 12 centimeters. Contrary to applicant's assertion and as stated supra, Haddock discloses in column 3, lines 23-26 that the diameter along a major axis of the "compact disc" 47 is substantially 8 centimeters and the distance between the sides is 4.7 centimeters.

It should be noted according to *The American Heritage® Dictionary of the English Language, Fourth Edition* a diameter dimension is not exclusive to a circle because a diameter is defined as the following:

- 1a. A straight line segment passing through the center of a figure, especially of a circle or sphere, and terminating at the periphery.
- 1b. The length of such a segment.
2. Thickness or width.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is 571-272-7572. The examiner can normally be reached on Monday thru Friday between 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David D. Davis
Primary Examiner
Art Unit 2652

ddd